

Offeror Questions & Answers

Q1: Reference Sections B3, B4 and B5, Base and Option Periods: Our assumption is that the Min., Max. and Est. numbers shown in these 3 table represents cumulative 6 month quantities. Is this correct?

A1: Yes.

Q2: The RFP requires that a potential offeror be able to provide search services for a minimum of 100 applications per month. If there is the potential for the offeror to be provided with a range of applications from 25 to 492, what will determine the number of applications the offeror will receive?

A2: An offeror must be capable of and willing to perform at least 100 applications per month (or an entire technical field). However, awardees will only be guaranteed the stated minimum quantity (i.e. 25 applications over the 6 month base period). Factors that will affect the actual distribution of work to contractors include the number of PCT applications received by the USPTO and the number of contracts awarded within that technical field. Also, see paragraph H.13 of the RFP.

Q3: What does the "Extended Price" represent? I understand the RFP's meaning in requesting a "Unit Price" to suggest a price per application. What does the "Extended Price" represent?

A3: Extended price is the result of multiplying the offeror's unit price by the stated maximum quantity. This is for evaluation purposes in accordance with paragraph M.7(H).

Q4: CLIN minimum/maximum/est. Do these amounts represent monthly applications anticipated or the total number for the 6 month period? To clarify, for CLIN 001, a minimum of 25, maximum of 492 and an estimate of 246 is listed. Does the PTO envision providing a winning offeror a minimum of 25 applications per month to a potential maximum of 492 applications for search per month?

A4: See answer to question #1 above.

Q5: Reference Section H.7, Key Personnel: Is the Search Approval Official(2) required to be a registered agent eligible to practice before the USPTO?

A5: No.

Q6: Reference Section L.3.5. Key Personnel Resumes: Are resumes only to be provided for the Project Manager and Search Approval Official(s) personnel references in section H.7.?

A6: Yes.

Q7: Reference Attachment 13, Past Performance Report: How should multiple contracts with the same commercial client be reflected on this Report, particularly in block 2 to 5.

A7: Each contract cited as a past performance reference should have its own Past Performance Report.

Q8: Do the conflicts of interest obligations set forth in section H.6(a) (c) and (d) apply to subcontractors that are performing non-search services under this pilot such as IT systems configuration and security where no access to data is permitted?

A8: No, the conflict of interest provisions set forth at paragraph H.6(a) – (c) do not apply to subcontractors and subcontractor employees that are performing non-search related services unless those subcontractors or subcontractor employees meet the definition of an “affiliate” as defined below in Q & A no.9. Contractors are also under a continuing obligation to report any relevant facts or circumstances that could give rise to a conflict of interest as described in FAR part 9.5.

Q9: What is the definition of “affiliates” as used in section H.6(c)(1)?

A9: The definition of “Affiliates” is set forth at FAR §2.101(b)(2) and is defined as associated business concerns or individuals if, directly or indirectly (1) either one controls or can control the other; or (2) a third party controls or can control both.

Q10: Is it possible for a company, owning patents and/or pending applications in a certain CLIN or art unit, to participate in the pilot as long as that company eliminates the conflict of interest by abstaining from bidding on prior art searching in that specific CLIN or art unit?

A10: No.

Q11: What format will the data be available in?

A11: Portable Document Format (PDF) files on CD-ROM or DVD.

Q12: What transport mechanisms will be available for retrieving original requirements as well as for posting our results?

A12: A pick-up and drop-off box will be established at the Alexandria campus.

Q13: What security/authentication requirements will exist?

A13: Security requirements are described in Section H, paragraphs H.8, H.9, H.14, H.17 & H.18. Also, Attachment 12. In order to access the public version of WEST, a secure FOB will be issued by the USPTO.

Q14: Are there any requirements on the platform (Windows, UNIX, etc)?

A14: See Attachment 12.

Q15: Are there any requirements on the implementation language/technology?

A15: We don't understand the question. See Attachment 12.

Q16: When (effective date/start date) will the IDIQ contracts be awarded?

A16: We anticipate making award(s) during the 4th quarter of Fiscal Year 2005.

Q17: While Section B (Supplies or Services and Prices/Costs) details the minimum, maximum, and estimated number of PCT applications per CLIN, it does not define the delivery timeline. Will the applications be delivered en masse or spread over the base and option periods? An indication of how many will arrive and when will be helpful in deciding upon staffing requirements.

A17: We anticipate spreading the work over the period of performance by assigning work on a weekly basis.

Q18: Section D.1 (Packaging and Packing Requirements) notes that the Contractor may be asked to submit deliverables electronically. If this is the case, where would the electronic documents be sent and in what format?

A18: Such deliverables would be sent via email to the COTR.

Q19: Section F.3 (Ordering Procedures) notes that services will be ordered by issuance of a task or delivery order to be delivered via fax or electronic mail. If delivered by electronic mail, how will the Contractor access the order (application documents) and in what format will they be available?

A19: The delivery order will function as a funding document only. Work will actually be assigned by the COTR issuing a Work Order to the Contractor. It is anticipated that these work orders will be issued on a weekly basis via e-mail to the Contractor. Application documents will then be picked up from a designated location at the USPTO by the Contractor in accordance with Section C.4.

Q20: Section G.4 (Invoicing and Payment Instructions) notes that a separate invoice is required for each executed task/delivery order. What is the size of a task/delivery order (i.e., approximately how many PCT applications will be delivered per delivery/task order)?

A20: This information cannot be determined at this time.

Q21: Section H.6 (Conflicts of Interest and Protection of Confidential Information) on page 27 cites an example of a conflict of interest where such may result when a contractor employee has searched the prior art in the same art for a private party. It appears that one group of offers that would successfully fulfill the requirements of this RFP are indeed those offers in the business of searching prior art information for third parties in advance of a patent application. Does this preclude such offers from responding to the RFP?

A21: The language in H.6 (b) is intended to be prefatory. Offerors are reminded that there is a specific prohibition on performing prior art searches for patent applications upon which the contractor, subcontractor, or employee has conducted a prior art search on the same invention.

Q22: Section L.17 (Period for Acceptance of Offers) notes that an offeror agrees to keep its offer available/valid for 160 days. Form 33 says "90" days in item 12. Which is correct?

A22: 90 days. Section L.17 is revised to reflect this change.

Q23: Attachment 11 provides various sample search guidelines for various CLINs and includes resources to be considered during prior art searches. Will access to all of these resources be provided via EAST/WEST or just those marked "EAST/WEST" in the Resource Description?

A23: No. The only resource being provided (to offerors who request it) is the public version of WEST. See paragraph G.7.

Q24: Section H.6, Conflicts of Interest and Protection of Confidential Information, contains Representations and Disclosures, and Obligations that appear to preclude an Offeror (to include any of its employees, affiliates, and subcontractors) from performing the role of PCT Search Authority Contractor if that Offeror has ownership interest in U.S. patents, or patents pending before the USPTO. Please clarify the USPTO's position on this matter.

A24: You are correct. See paragraph H.6(c)(2) of the solicitation.

Q25: In what form does the USPTO intend to make the patent applications available for pickup (paper / electronic / both...)?

A25: See answer to question # 11 above.

Q26: What is the fee that the USPTO gets for the international prior art search report service? Is there an additional fee for applications in the biotechnology field that require sequence searches?

A26: The fees which the USPTO receives for International applications can be found at <http://www.uspto.gov/web/offices/ac/qs/ope/fee2005mar15.htm#national> . The USPTO does not receive any additional fees for applications filed in the biotechnology field that require a sequence search.

Q27: Does the USPTO expect the proposals to be lower than the above fee? (or will it accept higher price in specific technical fields that require more search efforts)

A27: The USPTO cannot dictate the prices that offerors submit in response to a request for proposals.

Q28: Since an offeror might incur significant upfront setup cost, for building the needed infrastructure outlined in the RFP, will the USPTO accept incremental pricing to compensate for such an initial investment? For example:

- a. Price of \$X for each of 1-25 first applications
- b. Price of \$Y for each of the 26-100 applications

A28: No.

Q29: Will the USPTO define a mechanism that will enable an offeror to reject a specific patent application for a justifiable reason (for example due to a specific conflict of interest that arises for this application based on paragraph H.6(d)(ii))

A29: Contractors should contact the Contracting Officer and the Contracting Officer's Technical Representative if they feel that they were assigned work improperly. This includes patent applications which the contractor believes give rise to a conflict of interest.

Q30: In view of the fact that the USPTO mainly uses the Smith-Waterman and FrameSearch search algorithms for analyzing sequence based biotechnology patent applications, will the USPTO value the use of such algorithms by an offeror as an advantage or is it a requirement?

A30: The USPTO does not require any specific search method/algorithm and will not prejudge its evaluation of any specific approach.